

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION

NO. 4: 97 - CR- 35 - H - 2  
NO. 5: 14 - HC - 2133 - H

FILED IN OPEN COURT  
ON 8/12/14  
Julie A. Richards, Clerk  
US District Court  
Eastern District of NC

WILLIAM EARL WILLIAMS,  
Petitioner

v.

UNITED STATES OF AMERICA,  
Respondent.

ORDER

This matter is before the court on the Petitioner, William Earl Williams' Motion, pursuant to 28 U.S.C. § 2241, seeking to vacate his sentence as to Counts One and Three in light of the decision in *United States v. Simmons*. He contends that his sentence of mandatory life imprisonment cannot stand in light of *Simmons* because two of the three predicate North Carolina convictions relied upon by the Government to enhance his sentence are no longer valid predicates, as they are not crimes punishable by imprisonment for more than one year. At the time of his filing, Williams was housed in the District of South Carolina. [DE-241]

In its Response, the Government expressly waives any objection to the writ being raised in the Eastern District of North Carolina and expressly asked that this matter not be transferred to South Carolina. Furthermore, the Government concedes that Williams' claim for relief is meritorious and that the sentence of mandatory life is improper in light of *Simmons*. [DE-242]

The Court finds that personal jurisdiction and venue defenses have been expressly waived by the Government. See *Kanai v. McHugh*, 638 F.3d 251, 256-58 (4<sup>th</sup> Cir. 2011).

A review of Williams' prior criminal record, in light of the ruling in *Simmons*, and the content of Williams' Motion and the Government's Response convinces the Court that Williams is not subject to the penalty of mandatory life.

Williams' § 2241 motion [DE-241] is ALLOWED for the reasons stated herein. The sentence entered August 4, 1998 [DE-119] is hereby VACATED. This matter will be set for resentencing at the Court's call.

SO ORDERED.

This, the 12<sup>th</sup> day of August, 2014.

A handwritten signature in black ink, appearing to read "Malcolm J. Howard", is written over a horizontal line.

MALCOLM J. HOWARD  
Senior United States District Judge